

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

KENNETH SCOTT,)
vs.)
Plaintiff,)
vs.)
CIVIL NO. 10-002-GPM
RICHARD HARRINGTON, *et al.*,)
Defendants.)

MEMORANDUM AND ORDER

MURPHY, District Judge:

This matter is before the Court on Plaintiff's motion for leave to proceed *in forma pauperis* on appeal (Doc. 12). "An appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith." 28 U.S.C. § 1915(a)(3). A plaintiff is "acting in bad faith in the more common legal meaning of the term ... [when he sues] ... on the basis of a frivolous claim, which is to say a claim that no reasonable person could suppose to have any merit." *Lee v. Clinton*, 209 F.3d 1025, 1026 (7th Cir. 2000). Further, "an appeal in a frivolous suit cannot be 'in good faith' under § 1915(a)(3), because 'good faith' must be viewed objectively." *Moran v. Sondalle*, 218 F.3d 647, 650 (7th Cir. 2000); *see also Lee*, 209 F.3d at 1026; *Tolefree v. Cudahy*, 49 F.3d 1243, 1244 (7th Cir. 1995) ("[T]he granting of leave to appeal in forma pauperis from the dismissal of a *frivolous* suit is presumptively erroneous and indeed self-contradictory.").

This action was dismissed as frivolous under 28 U.S.C. § 1915A, and Plaintiff has offered no convincing argument that this Court's conclusion was incorrect. The Court **CERTIFIES** that this appeal is not taken in good faith; accordingly, the motion for leave to proceed *in forma pauperis*

on appeal is **DENIED**. Plaintiff shall tender the appellate filing and docketing fee of \$455 to the Clerk of Court in this District, or he may reapply to the Seventh Circuit Court of Appeals for leave to proceed *in forma pauperis* on appeal.

IT IS SO ORDERED.

DATED: 10/05/10

s/ *G. Patrick Murphy*
G. PATRICK MURPHY
United States District Judge